UNITED
NATIONS

CERD

International Convention
on the Elimination
of all Forms of
Racial Discrimination

Distr.
GENERAL

CERD/C/SR.1114
15 August 1995

Original: ENGLISH

COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Forty-seventh session

SUMMARY RECORD OF THE 1114th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 10 August 1995, at 10 a.m.

Chairman: Mr. GARVALOV

CONTENTS

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (continued)

Second, third and fourth periodic reports of Somalia

Thirteenth periodic report of Nigeria

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of this document to the Official Records Editing Section, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

GE.95-18303 (E)

The meeting was called to order at 10.15 a.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (continued)

Second, third and fourth periodic reports of Somalia (CERD/C/88/Add.6)

1. Mr. BANTON, speaking as rapporteur for Somalia, said that in the absence of a report from Somalia since 1985, the Committee had decided in 1992 to review the implementation of the Convention in Somalia the following year but had failed to do so. He proposed that two paragraphs on Somalia should be included in the annual report, the first referring to the 1992 decision and the second stating that at the current session the Committee had decided to defer further consideration of the situation in Somalia for an additional two years.

2. Mr. ABOUL-NASR said that while he agreed with Mr. Banton's suggestion, he thought that the Committee should state its reasons for deferral. The situation in Somalia was extremely difficult. After the fall of the dictator Siad Barre and the outbreak of factional warfare, the United Nations had intervened and subsequently withdrawn, committing many regrettable errors in the process. Somalia had been subsequently left to its own devices, save for a few humanitarian organizations such as the International Committee of the Red Cross. The north of the country had seceded as Somaliland, a country that had not been recognized by the international community, and the remainder of the country was split into warring factions. The capital, Mogadishu, was divided between two warlords, Ali Mahdi Mohamed and General Mohamed Farah Aidid, who were cousins and belonged to the same tribe. There were reports of imports of arms in contravention of Security Council resolutions. The situation in the country was chaotic and could easily flare up again into a major conflict. There was little that the Committee could do since there was no Government to submit a report and nobody to represent the country. Perhaps a paragraph setting out those facts could be inserted in the annual report.

3. Mr. RECHETOV urged the Committee to keep the situation in Somalia under review. The international community had done nothing to help the country. On the contrary, its behaviour had been highly ambiguous. Humanitarian action was admissible under international law if it conformed to certain criteria of, for example, proportionality and non-interference with the right of self-determination. The international intervention in Somalia had failed to respect those criteria and the Somali people had eventually been left to their tragic fate as victims of the warlords.

4. Mr. CHIGOVERA supported the proposals of Mr. Banton and Mr. Aboul-Nasr and suggested in addition that the Committee, which had lamented the failure of the international community to halt "ethnic cleansing" and human rights violations in the former Yugoslavia, should insert an additional paragraph in the annual report lamenting the international community's failure to halt the carnage in Somalia.

5. Mrs. SADIQ ALI agreed that the United Nations should be held responsible for the situation in Somalia. She supported the proposals of Mr. Banton and Mr. Aboul-Nasr and urged the Committee to call on foreign Powers to halt their arms deliveries to the warlords.

6. Mr. SHAHI agreed with the proposal to defer consideration of the situation in Somalia. Although the international community had been wrong to wash its hands of Somalia, he questioned the wisdom of drawing parallels between that country and the former Yugoslavia. He was not aware of a campaign of "ethnic cleansing" in Somalia.

7. Mr. FERRERO COSTA expressed concern at the lack of information concerning Somalia, which tied the Committee's hands so that it seemed to be abandoning Somalia to its fate. He wondered whether the Committee could obtain information from some source that would serve as the basis for a discussion and recommendations within a year rather than two years as a modest step towards improving the situation.

8. Mr. ABOUL-NASR said that he had visited Somalia twice during the current year and had contacts with Somalis within and outside the country. He agreed that the comparison with the former Yugoslavia was inappropriate in the absence of "ethnic cleansing". He supported the idea of expressing indignation at the international community's abandonment of Somalia. The Security Council decision to withdraw United Nations troops had been taken against the advice of both the Organization of African Unity and the League of Arab States. It had been motivated by lack of funds and a general fatigue with the situation. He further supported Mrs. Sadiq Ali's proposal to call for a halt to arms supplies to the warring factions. Information on developments in Somalia could be obtained almost weekly from the small remaining United Nations unit in Mogadishu.

9. Mr. YUTZIS said that he felt strongly about the methods used by the Committee in approaching situations such as that obtaining in Somalia. In the case of the former Yugoslavia, a number of members had expressed regret at the Committee's failure to foresee the turn of events in that part of the world, although there had been clear signs of a build-up of aggression. Had it done so, it might have played some kind of preventive role by focusing international attention on the problems. The Committee had not only institutional but also scientific and moral obligations to use the knowledge it acquired during its lengthy discussions with States parties in order to anticipate developments and offer advice with a view to averting problems.

10. He wondered whether it was possible for the Committee or some of its members to serve as mediators, not in the political sense but as experts, in cases of racial discrimination. Some members of the Sub-Commission on Prevention of Discrimination and Protection of Minorities had said at the recent joint meeting that the Committee's mandate required it to probe beyond the surface of events in order to reveal the substance. He proposed that the Committee should adopt a methodology based on that goal.

11. The CHAIRMAN asked Mr. Yutzis to submit his important proposal in writing.

12. Mr. de GOUTTES supported Mr. Ferrero Costa's view that the Committee should seek information that might help to clarify the confusing situation in Somalia and set a much closer date for further consideration of developments. Information was available from non-governmental and humanitarian organizations. Amnesty International, for instance, had reported persistent human rights violations, including executions of journalists and members of non-governmental organizations. The Committee should not be seen to be lacking in vigilance or lay itself open to accusations of adopting a wait-and-see attitude.

13. He was generally opposed to deferral of consideration of the situation in a country on the grounds of lack of information. Madagascar, for example, had requested deferral of consideration of its report sine die. He was in favour of proceeding with the Committee's consideration of the situation in that State party notwithstanding its request.

14. The CHAIRMAN said that Madagascar was on the agenda and the Committee would shortly have to take a decision on how to proceed.

15. Mr. SHERIFIS said that the situation in Somalia, with massive displacement of the population, was a human tragedy of unprecedented proportions. He warmly supported the idea of appealing for a halt to arms supplies and would go further than Mr. Ferrero Costa in suggesting that the question of Somalia should be taken up again at the next session rather than in a year's time.

16. He was reluctant to apportion blame for the situation, even though it had become fashionable to criticize the role of the United Nations in Somalia. He was not sure that the Committee had sufficient information at its disposal to pass judgement.

17. The CHAIRMAN requested Mr. Banton to prepare a paper on Somalia in the light of the preceding comments, for consideration by the Committee.

Thirteenth periodic report of Nigeria (CERD/C/263/Add.3; CERD/C/283)

18. At the invitation of the Chairman, Mr. Azikiwe, Mr. Ibrahim, Mr. Gwam and Mr. Kobani (Nigeria) took seats at the Committee table.

19. The CHAIRMAN explained the procedure for the presentation of the report and urged the delegation and members of the Committee to comply with the time-limits for the delivery of statements recommended by the Bureau in the note circulated earlier in the session.

20. Mr. AZIKIWE (Nigeria) said that Nigeria attached great importance to the work of the Committee and the Convention. The purpose of the thirteenth periodic report (CERD/C/263/Add.3) and the additional information provided in document CERD/C/283 was to reaffirm Nigeria's commitment to the Committee and the Convention and to outline the Federal Government's plans for the future.

21. The present Administration in Nigeria was a child of circumstances. It had assumed power on 17 November 1993 to halt the possible disintegration of the nation and restore some confidence among the diverse cultural, ethnic and

linguistic groups that it encompassed. One of the major tasks facing the Administration had been the issue of law and order, and it had endeavoured to balance the interests of the majority of Nigerians against those of a few individuals. It had been guided in that process by the realization that the law was merely a means to an end, namely, to help resolve the problems of the society for which it existed. The delicate balance of interests had been reflected in the promulgation of new decrees and the implementation of existing legislation, while ensuring that the fundamental human rights enshrined in the Nigerian Constitution of 1979 were not unduly tampered with. In assessing the human rights performance of the Administration, it was worthwhile bearing in mind that the law should be judged by the extent to which it met moral standards and needs. It was none the less recognized that the rights of individuals or groups did not depend on domestic laws alone, but were also subject to international politics and law. The laws and measures adopted by the present administration were designed to deal specifically with the problems of law and order prevailing in the country and would be repealed or abolished when the special circumstances ceased to exist. The transition to democratic rule would be furthered in a programme to be announced by the Government on 1 October 1995.

22. Nigeria had consistently promoted and protected the development of fundamental human rights. In recognition of its obligations as a State party, Nigeria had passed legislation that was in keeping with the definition of racial discrimination embodied in article 1 of the Convention. Likewise, in compliance with paragraphs 2, 3 and 4 of the same article, the special measures adopted had secured adequate advancement for Nigerian citizens without violating the basic rights of non-citizens living in Nigeria.

23. The population of Nigeria currently stood at around 98 million. The country was divided into 30 states and had 593 local government councils. Despite the fact that there were more than 250 ethnic groups with different cultures and languages, over the years Nigerians had forged unity and lived as one indivisible sovereign nation. The 1979 Constitution, slightly modified to suit present circumstances, provided a framework for promoting and protecting the ideals of a Federation where groups and individuals could live in harmony irrespective of race, colour, sex or religion. Chapter IV of the Constitution was entirely devoted to the recognition, promotion and enforcement of the rights of groups and individuals. While further information on the population was available, it did not contain a breakdown according to ethnic and religious composition, in line with government policy to de-emphasize and defuse ethnic and religious tensions through ethnic integration and religious harmony. In addition, questions regarding the religious persuasion of citizens had deliberately been omitted from the questionnaire for the 1991 national census.

24. The Federal Government had formulated development policies and set up programmes aimed at encouraging group interests while maintaining the unity and sovereignty of the country. Conscious of the wide variety of ethnic and linguistic groups and the need to bring government closer to the people, the Federal Government had made provision for direct funding of the local government councils, which received 20 per cent of the national revenue.

25. Steps had also been taken to encourage rural development and local pride in the states where the bulk of crude oil was produced. It must be emphasized that all mineral resources within the territory of Nigeria belonged to the Federal Government. Nevertheless, aware of its responsibilities vis-à-vis the mineral-producing areas of the Federation, the Federal Government had established the Oil Mineral-Producing Areas Development Commission, whose objectives included the rehabilitation and development of such areas and action to tackle ecological and environmental degradation problems arising there. Moreover, in line with the Government's economic liberalization policies the Nigerian Investment Promotion Commission Decree of 1995 was designed to attract foreign investment into the country. It was hoped that the spin-off benefits, including creation of employment and transfer of technology, would compensate adequately for any loss of opportunity in the participation by any group in the exploitation of mineral resources.

26. In accordance with the political objectives of the country - Unity, Faith, Peace and Progress - laid down in section 15 of the 1979 Constitution, the Federal Government had established secondary and tertiary educational establishments throughout the country designed to foster unity. Likewise, the establishment of a National Youth Service Corps, under which university graduates were obliged to work for one year in states other than those of their origin, had proved successful and had created a formidable esprit de corps. Further innovative steps aimed at encouraging the development of particular groups in society included the establishment of a Federal Ministry for Women's Affairs, the National Commission for Nomadic Education, and other commissions and programmes catering for the special needs of disabled persons, children and refugees. Such programmes, which took account of the social, economic and religious backgrounds of the groups concerned, had had a positive impact on the political objectives of the country.

27. Nigerians were very conscious of their political and civil rights and stoutly resisted any denial of those rights by individuals, groups or the Government. Many Nigerians sought redress in the courts of law when those rights were violated and were angered if such violations were committed on account of their ethnic, racial or religious background. In recognition of that fact, the various constitutions adopted since independence had ensured freedom from discrimination.

28. Section 39 of the 1979 Constitution provided for the protection of those rights. Its practical effect, which was largely in conformity with article 4 of the Convention, enabled every Nigerian to demand the full enjoyment of his political or civil rights. The Government had relied on the provisions of section 39 to call to order any attempt by individuals, groups or media houses to cause disaffection between one community and another. Media houses which thrived on the publication of materials that promoted sectional interests had been dealt with according to the law. Likewise, any publication deemed as inciting one community against another was regarded as detrimental to the overall interests of national unity.

29. Section 39 (2) of the 1979 Constitution had been hailed by many Nigerians as innovative and progressive. It formed an integral part of chapter IV of the Constitution, which protected fundamental human rights. The Federal Government had taken steps to ensure that both states and federal courts were

empowered by the Constitution to provide relief to any citizen who alleged infringement of any of his fundamental rights. The various rights enshrined in the Constitution were justiciable and any aggrieved party, whether a citizen or non-citizen of Nigeria, could go to court to enforce his rights.

30. In connection with article 6 of the Convention, section 42 of the Constitution provided that any person who alleged a violation of his fundamental human rights might apply to a high court for redress. In order to ensure that no individual would be disadvantaged on economic grounds, provision had been made under the Constitution for legal aid thereby allowing any individual or group to initiate proceedings in a competent court or tribunal. In special circumstances, the Government had risen to the defence of minority rights where appropriate to ensure fairness. In situations of ethnic violence, tribunals had been set up with power to deal with cases of alleged seizure or abandonment of property. The findings of such tribunals had been found useful and acceptable to all concerned.

31. Turning to article 7 of the Convention, he said that the Nigerian Police Force had a reputation of being one of the best trained in dealing with conflict situations, as borne out by its activities in Africa and the Caribbean in the 1970s and 1980s and its distinguished record in United Nations peace-keeping operations. Measures to ensure compliance with article 7 of the Convention included the establishment of the Technical Aid Corps Programme of the Ministry of Foreign Affairs, whereby young graduates volunteered to serve in developing countries for a given period. Around 200 graduates were sent to developing countries, mainly in Africa and the Caribbean, each year at the expense of the Federal Government.

32. In conclusion, he said that most of the information provided had already been forwarded to the Centre for Human Rights as additional information to the thirteenth periodic report, as requested by the Committee. In line with government policy to de-emphasize and defuse ethnic and religious tensions by creating an atmosphere conducive to ethnic integration and religious harmony, the additional information did not provide a breakdown of the ethnic and religious composition of the population.

33. Mr. BANTON (Country Rapporteur) stressed that the Nigerian man or woman in the street had the same human rights as any person elsewhere. His or her rights under the Convention must be protected by the State to the same extent as those of people in other States parties. He further stressed that State party representatives and Committee members met on equal terms, to serve the Convention. In connection with article 1 of the Convention, the Committee had noted in the past that section 39 (1) of the Nigerian Constitution, cited in paragraph 14 of the report (CERD/C/263/Add.3), did not cover non-citizens or provide protection against discriminatory actions or practices outside the governmental sector. The Committee could not therefore be satisfied with the additional information provided by the delegation in that connection.

34. No further information had been provided on which constitutional provisions were currently in force. According to Decree No. 12, it was not possible for any Act of the Federal Military Government to be questioned in a court of law and, furthermore, all courts were divested of jurisdiction in all matters concerning the authority of the Federal Government. That appeared to

override provisions protecting against racial discrimination. What had been involved, therefore, was not a slight modification of the Constitution, as the delegation had suggested, but for certain purposes a fundamental modification.

35. Nigeria's reporting record showed a lack of continuity in that questions asked in connection with one periodic report had not been answered in subsequent reports. That not only detracted from the quality of the dialogue with the Committee, but meant that Nigeria had lost an opportunity to set a good example. The report also failed to explain the views of the Federal Government on how the Convention applied to its circumstances. That was not due to any lack of good will but rather to a failure to understand the task involved. Unfortunately some of the information provided by Nigeria related to other human rights instruments. The issue of demographic information had been taken up with Nigeria on previous occasions. Any further discussion on the subject must be based on paragraph 8 of the Committee's general guidelines regarding the form and contents of reports (CERD/C/70/Rev.3). There was no evidence to suggest that Nigeria fulfilled its obligations under article 2, paragraph 1 (b), and paragraph 1 (d) in so far as it related to non-governmental entities. With respect to article 2, paragraph 1 (e), he would welcome further details as to how national integration was being actively encouraged, as stated in paragraph 9 of the report.

36. Paragraph 16 of the report stated that "necessary steps" were being taken to implement the provisions of article 4 of the Convention fully, but the progress made since Nigeria had first acceded to the Convention had been very slow. Paragraph 20 stated that the African Charter of Human and Peoples' Rights had been incorporated into the national laws. The Committee would like to know more about the process of incorporation. He noted that article 2 of the African Charter provided that every individual, without distinction, should be entitled to enjoy the rights and freedoms recognized in it. He wondered whether that provision had made any difference so far to the protection enjoyed by individuals, rather than citizens. According to a Human Rights Watch document, the chief prosecutor in the trial of Mr. Saro-Wiwa, leader of the Movement for the Survival of the Ogoni People, had said that the African Charter was "only an ideal".

37. Protection against discrimination on grounds of ethnic origin called for particular attention. A recent article in Newswatch (Lagos) said that allegations of ethnic discrimination in all walks of life could be heard in every state of the Federation. It went on to refer to tribalism as an explosive issue that had always been subject to pernicious manipulation. There appeared to be sufficient truth in the article for it to be taken seriously. If public order should break down, many conflicts, even if they were primarily political, would be likely to follow ethnic lines. According to one view, "tribalism" was a misnomer: it would be better to speak of "clientelism", in which persons able to influence the distribution of resources were expected to favour their own clientele. It could be seen as a response to the State's inability to protect the citizen's right to equal treatment. Did the Government accept that there was a problem loosely called "tribalism" and, if so, how did it see the problem and what policy did it follow to mitigate it?

38. In any country with many ethnic groups, social and religious conflicts could acquire an ethnic dimension. In Nigeria, one such conflict was associated with the Movement for the Survival of the Ogoni People. Another example was the fighting that had broken out between Christian and Muslim students in Kano in February 1994. Information on both conflicts had been supplied to various United Nations bodies. In suppressing political disturbances, the police and the army could lawfully use violence, but there were grounds for fearing that they sometimes exceeded their lawful powers. They were more likely to resort to unlawful violence, however, when those accused of making a disturbance were of a different ethnic origin from the police or troops involved, in which case the events came within the scope of the Convention. Human Rights Watch had submitted a document to the Sub-Commission on Prevention of Discrimination and Protection of Minorities, drawing attention to the obligations of States under article 2, paragraph 1 (e), of the Convention and alleging serious violations of the Convention by the Nigerian authorities. In an article in The Guardian of 14 June 1995 on action to quell protests by the Ogoni, a captain of the Internal Task Force had admitted that his troops had engaged in rape, plunder and the killing of innocent civilians, but had claimed that the action had been in discharge of orders from higher authority. Had there been any investigation of whether unlawful orders had been given or obeyed? Even in cases where there was sufficient evidence to prosecute senior officers, it was doubtful whether the prosecution could guarantee the security of witnesses. A situation of impunity seemed to prevail.

39. The situation with respect to the Ogoni seemed to resemble that in Chiapas. A group of persons sharing political and economic grievances found that they could mobilize most effectively on a basis of shared ethnicity. That brought the situation in Ogoniland within the purview of the Committee, but he believed - although other members might disagree - that if there had been human rights violations in the trial of Mr. Saro-Wiwa, they should be brought before other United Nations bodies. He understood that the conditions which had occasioned discontent among the Ogoni might well exist among other peoples of the eastern coastal region. The Committee would welcome information about any measures the Government had taken to consult them about their grievances. He asked whether the authorities responsible for public order in Kano, where religious differences were associated with ethnic differences, leading to a greater risk of disorder, were accountable to the Federal Government.

40. Further questions arose in regard to the implementation of the various sections of article 5. He asked whether, in criminal trials, the verdict was determined by a jury and, if so, how jury members were selected. Were there complaints of ethnic bias in court proceedings and any policy to prevent such bias? Were threats ever made to the security of persons because of their ethnic origin? He recalled that the representative of another State party had told the Committee at a previous meeting that in his country the law was not always properly enforced and that poor people found it difficult to assert their rights. He wondered whether Nigeria was as different from Mexico as the two countries' reports implied. A Nigerian who complained of discrimination in employment could, in theory, obtain a remedy from the court. Could any examples be supplied to show that the remedy was effective? With regard to article 5 (d) (i), on the right to freedom of movement, an ILO Committee had

noted that massive expulsion measures had been taken against Chadian workers and, in that connection, had addressed an inquiry to the Government of Nigeria. It would be useful for the Committee on the Elimination of Racial Discrimination to receive a copy of the reply.

41 On the question of the implementation of article 6, he asked whether the available remedies were effective and whether they were open to needy persons. Could the Government cite any instance of "just and adequate reparation"? As to article 7, he noted that paragraph 30 (f) of the report referred to promoting values of tolerance. He asked how that was done and how effective it was.

42. It might have been hoped that Nigeria would, by 1995, have made a declaration under article 14 of the Convention, given the statement by the representative of Nigeria in the 1965 General Assembly debate on the adoption of the Convention that the right of individual petition had been the most important part of the draft Convention.

43. The most difficult question for any State party was the conflict between theory and practice. He asked whether, since 1967, the Nigerian Government had taken any action which it would not have taken but for its obligations under the Convention. There was very often a conflict between the Convention and what actually took place in States. Many States parties would have difficulty in pointing to anything that had been done simply because of the Convention. Nigeria's periodic reports had never included any philosophical reflection on the application of the Convention to Nigeria, although there had been intense discussion within the country, over many years, on how best to mitigate discrimination on grounds of ethnic origin and eliminate barriers between ethnic groups. Nigeria's experience of constitutional engineering ought to be of interest to other States faced with ethnic tensions. All the complicated legal provisions that were supposed to govern the electoral process under the Second Republic had been superseded by the military takeover. However, discussion of how the Constitution might be used to diminish ethnic alignment had not ceased. A parliamentary proposal on the Constitution, in 1990, had attempted to counter the problem by providing that there should be only two political parties. It would have been interesting to hear if there were any plans for the restoration of civilian rule in the future. Experience elsewhere showed that ethnic sentiment could easily become the overriding consideration whenever there was any political competition.

44. From the statement just made by the representative of Nigeria he had noted that any attempt by individuals or groups to cause disaffection against any person or group of persons or community could be adjudged by the Government as a violation of section 39 of the 1979 Constitution. Were there any examples of such judgements? He also noted that publications tending to incite one community against the other were dealt with according to law. How often had such action been taken? It would have been interesting to know in what circumstances persons had applied to a court for redress of violations of fundamental human rights and what action the Government had taken. The report did not go into enough detail to allow the Committee to appreciate the extent to which rights under the law could be fully exercised.

45. The representative of Nigeria had referred to the Nigerian Police Force and the ability it had shown in dealing with situations of ethnic conflict. It would be interesting to know how that had been achieved, how the police units concerned had been constituted, what language they employed, and how ethnic discrimination was avoided in their recruitment. It would be useful to have more information in the next report about the factors which had led to the success of the Nigerian police.

46. Mr. VALENCIA RODRIGUEZ commended the Nigerian Government's decision to continue to comply with the tenets of the Convention. He hoped that the programme of transition to democratic rule, referred to in paragraph 3 of the report, would be resumed and that greater popular participation in political organizations would be encouraged. In that connection, he had been concerned to hear, from a report by Amnesty International, that the military Government continued to prohibit all political activity.

47. In connection with the implementation of article 2 of the Convention, it was stated, in paragraph 8 of the report, that press freedom had become non-negotiable and that journalists were able to practise their profession without any fear of harassment. On the other hand, paragraph 34 stated that Nigeria had a free press "to a large extent", which seemed to indicate that the press was not yet completely free. He would like more information on that point. He was glad to hear that Decree No. 1078 of 1993 had not eroded the basic rights enshrined in the Nigerian Constitution and that the provision of section 15 (1) of the Constitution, regarding the active encouragement of national integration and the prohibition of discrimination, was being upheld. He would, however, like to have some details of the secondary legislation enacted to ensure the implementation of those principles and hoped that that information would be included in the next report.

48. He had learned with concern of certain activities being undertaken recently against the Ogoni people. Amnesty International reported that some 500 persons had been detained arbitrarily, 50 killed by the security forces, and others wounded. He would like to have more information on any recent ethnic and religious disturbances, since Amnesty International had concluded that Nigeria was going through a very serious human rights crisis.

49. He had taken note of the information regarding the implementation of article 4 and the general overhauling of laws in all areas. He would be interested to hear the reasons for the two codes of criminal law in the country, the Criminal Code in the south and the Penal Code in the north. It would seem advisable, in principle, for the two to be merged and he would welcome information on the result of the review referred to in paragraph 16.

50. Regarding article 5, he was glad to learn that sections 30 to 40 of the Constitution, relating to various human rights, were still retained, that the African Charter of Human and Peoples' Rights had been incorporated into national law, and that in 1992 Nigeria had ratified the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights. He would like to know, however, whether the provisions of the Convention and the Covenants could be invoked directly before the Nigerian courts.

51. Regarding article 6, he would like an explanation of the relationship between the Federal Court of Appeal and the Shariah Court of Appeal of a State. He stressed the desirability of avoiding duplication and delay in the courts. According to paragraph 25 of the report, section 42 (2) of the Constitution stated that, subject to the provisions of the Constitution, a High Court should have original jurisdiction to hear and determine any application made to it in pursuance of the provisions of the section, and could make such order, issue such writ and give such directions as it might consider appropriate for the purpose of enforcing or securing the enforcement of any rights to which the person making the application might be entitled under the Constitution. In view of the reference to enforcement, he would like to know what action could be taken in the case of violations of human rights committed by individuals or organizations. Paragraph 28 spoke of amendments to the Legal Aid Scheme. He would like further information on that Scheme and the modifications made in it. In general, the programmes undertaken by Nigeria to implement article 7 of the Convention were satisfactory and he looked forward to their further amplification and implementation.

52. Mrs. SADIQ ALI said that she would like information on the action taken recently against the Movement for the Survival of the Ogoni People. Three members of the Movement had been arrested by Nigerian security agents on 4 August 1995 in Port Harcourt, Rivers State, after testifying before the Commonwealth Human Rights Committee. Those men, who had been severely beaten, were still being held in illegal detention without charge and were being tortured. The police had had no warrant and no reason had been given for the arrest. She would therefore like to know why they had been arrested. In addition, on 29 July 1995, the Movements's national headquarters in Port Harcourt had been sealed off by security agents. After beating the guard on duty and inflicting multiple injuries on him, the security agents had broken into the office of the president of the Movement and removed by force files and videotapes. She would like to know the reasons behind that action. Lastly, she appealed to the Head of State of Nigeria, on behalf of the Committee, to rescind the death sentence on General Obasanjo.

53. Mr. WOLFRUM said that the high-ranking delegation attending the Committee on behalf of Nigeria showed the Government's strong interest in engaging in a debate on the implementation of the Convention. Under article 9 of the Convention, the Committee had a mandate to consider not only reports on legislative and judicial measures designed to give effect to the provisions of the Convention, but also the practical measures taken. In the case of Nigeria, the Committee had received considerable information on the legal framework but rather little on actual practice, although some further details had been provided in the oral statement. He was fully aware that the preparation of reports was a difficult task, particularly for a Federal State. Nevertheless, it was important to go beyond the list of legislative measures and to report on their application in practice.

54. He requested clarification of the statement in the oral presentation that the present Administration ensured that the fundamental human rights of Nigerians, as provided for in the 1979 Constitution, were not "unduly tampered

with". Nigeria's next report should include details of decrees, other enactments and court rulings relating to the punishment of violations of civil liberties and acts of racial discrimination.

55. Nigeria was not unfamiliar with the problems of intercommunal and ethnic strife. However, the Committee had not been given enough information on how the Government had tackled the problem, either through judicial or other inquiries, nor on their outcome. Furthermore, there was a dearth of information on the Movement for the Survival of the Izon (Ijaw) Ethnic Nationality in the Niger Delta, the Ogbia community's Movement for Reparation to Ogbia, the Council for Ikwerre Nationality and the Southern Minorities Movement, comprising 28 ethnic groups from the Delta, Rivers, Akwa Ibom, Edo and Cross Rive States. The next report should remedy that deficiency and provide details on the movements, on how the Government viewed their aspirations, and on what it was doing or intended to do to accommodate their views.

56. The delegation should enlarge upon the reference to border changes and the reshaping of the federal system, which was designed to take greater account of ethnic interests and bring the Administration closer to the people. Although the principle was commendable, the Committee would need more detail on the ethnic groups affected, and the possible influence on ethnic groupings, before it could make up its mind whether the measures were positive or not. The Committee would also be interested to know why section 39 of the Constitution was being applied to guarantee protection against acts of racial hatred or violence, as opposed to any provision under the Criminal Code, which would seem to be closer to article 4 of the Convention.

57. As to the Nigerian Police Force, he asked whether law enforcement officers were given training in the area of human rights and the prevention of discrimination. The delegation's assertion that the police were effective in dealing with unrest and civil disobedience should be backed up with evidence that they routinely avoided excessive force in such situations.

58. The unrest extensively reported in Nigeria seemed to stem from one fundamental source, namely, the misgivings, uneasiness and dissatisfaction of certain groups, particularly in the Rivers area, over environmental protection and guarantees that their traditional way of life and ties to the land would be preserved as natural resources were explcited for financial gain. He asked what measures were being taken to preserve the ethnic identity of the affected groups in such cases. A related subject was that of the distribution of revenue. He asked whether distribution was still regulated by the relevant Decree of 1978. It seemed that under the 1979 Constitution, the Federation controlled mineral resources. The revenue from their exploitation was apparently distributed pursuant to the Allocation of Revenue (Federation Account, etc.) (Amendment) Decree No. 36 of 1984, as described in paragraph 11 of the report. Was it true that a mere 1.5 per cent of the revenue was allocated to the Oil Mineral-Producing Areas Development Commission? How did the Commission work with local ethnic groups and was it directly responsible for distributing revenue to them?

59. Mr. van BOVEN commended Nigeria for the active role it had played in the drafting of the International Convention on the Elimination of All Forms of Racial Discrimination and its insistence that present articles 14 and 15 should be included. It was also gratifying that Nigeria had seen fit to submit its thirteenth periodic report to the Committee within two years of presenting its tenth, eleventh and twelfth periodic reports.

60. The delegation had informed the Committee that Nigeria boasted no less than 250 ethnic groups, each with their own culture and language. In those circumstances, the special measures to be taken pursuant to article 1, paragraphs 2, 3 and 4, of the Convention were most welcome, as were the proposed measures to establish national institutions to facilitate the implementation of the Convention. However, particular care should be taken to ensure a balance between the Government's policy to de-emphasize and defuse ethnic and religious tension by promoting ethnic integration and harmony, and the acknowledgement and protection of the distinct character of the ethnic and racial groups.

61. Much had been said by members of the Committee on the situation of the Ogoni people. The report "The Indigenous World 1994-1995" had stated that 1994 had been a difficult year for the Ogoni people, with hundreds of them killed, and that there had been massive arrests and human rights abuses following their peaceful protests against the economic devastation and human suffering they had endured as a result of the massive destruction of farmland in order to produce oil. Nigeria was Africa's largest oil-producing country, with oil from Ogoniland accounting for 90 per cent of Nigeria's export revenue. However, in that area, which had yielded US$ 30 billion, there was still no electricity, piped water, decent health facilities or proper roads and education had been disrupted owing to irregular payments to teachers over the past two years. The delegation of Nigeria should explain why the benefits of the use of natural resources were not equitably shared among the population as a whole and, more particularly, the people from whose land they were extracted.

62. In the oral presentation, it had been stated that Nigerians were very conscious of their political and civic rights and that "any denial of these rights by individuals or groups or government are stoutly resisted", which explained why "many Nigerians go to court to seek redress whenever these rights are denied or violated". However, the thirteenth periodic report contained no examples of case law to back up that statement and give an idea of how effective the court system was, nor any description of the remedies available in accordance with article 6 of the Convention.

63. The delegation had praised the Nigerian Police Force and its handling of conflict situations. However, information on how far the training of law enforcement officials complied with the provisions of General Recommendation XIII should be provided.

64. Mr. DIACONU said that he recognized the magnitude of the difficulties facing Nigeria. However, all countries should be prevailed upon to implement the Convention to the fullest extent possible.

65. In many countries, particularly developing countries, the question of resources and their distribution and benefits was extremely important and often directly related to ethnic issues. The only way for Governments to avoid and mitigate problems in that area was to ensure the harmonious development of all regions and peoples and prevent the appearance of pockets of underdevelopment in which ethnic conflict could ferment. The inequitable distribution of national wealth or efforts by one particular group to monopolize the riches of a country inevitably led to ethnic conflict. Information on ways in which the Government intended to foster the idea of tolerance, responsibility and cooperation among ethnic groups would be of use to the Committee. Similarly, he asked whether there were other bodies like the National Commission for Nomadic Education that were in a position to promote understanding among peoples in Nigeria. It appeared that associations of ethnic groups were on the increase in Nigeria. He asked if they had been granted legal status and why the Government had not established national forums for dialogue with them and organized governmental or non-governmental conferences to discuss their demands and aspirations.

66. From the report it seemed that Nigeria had not made adequate provision for incorporating the Convention into its domestic legislation, as required under article 4 of the Convention. The delegation should explain what the Government intended to do to rectify that situation. Furthermore, the delegations's statement, in the oral presentation, that the Government had relied on the provisions of section 39 of the Constitution to "call to order" any attempt by individuals, groups or media houses to cause disaffection between one community and another was inadequate; that practice did not fully comply with article 4 of the Convention.

67. Mr. de GOUTTES suggested that the Nigerian authorities should consider how to resolve the problem posed by the fact that section 39 (1) of the Constitution only protected citizens of Nigeria, not foreigners, and then only from discrimination on the part of the Administration and public authorities. He asked the delegation for information on whether the Government had concluded its review of how to unify the Criminal Code that operated in the south and the Penal Code that operated in the north of the country. Details of the reform of the criminal laws referred to in paragraph 8 of document CERD/C/283 would also be welcome. Lastly, he asked why the Government of Nigeria had refused to authorize an independent investigation by Amnesty International into the situation in Ogoniland in 1994.

68. Mr. Azikiwe, Mr. Fasehun, Mr. Gwam and Mr. Kobani (Nigeria) withdrew.

The meeting rose at 1 p.m.